

Preliminary Amendment
Serial No. 09/674,643
Our Ref: Q61622

RECEIVED

MAR 19 2003

TECHNOLOGY CENTER R3700



REMARKS

Entry and consideration of this Amendment are respectfully requested.
Claims 1-3 and 15-36 are all of the pending claims. Claims 1 and 15 are the only independent claims.

Allowable Subject Matter

Applicant thanks the Examiner for indicating that claims 15-22 are allowed in the Advisory Action mailed January 29, 2003.

Claim Rejections Under 35 U.S.C. §§ 102 and 103

Claims 1, 3, 26-32, and 36 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Dombrowski et al. (US 4,790,828). Applicant has amended claim 1 so that it now recites that the sleeve and is "able to take at least three positions, respectively *an equilibrium* "starting position", *an equilibrium* "in-use position" and a "locked position."

Applicant respectfully requests that the Examiner withdraw the rejection of these claims at least because Dombrowski does not teach or suggest the claimed device for protecting a needle that has a first resilient return hinge means for connecting the first end of the first link to the sleeve and is "able to take at least three positions, respectively an equilibrium "starting position", an equilibrium "in-use position" and a "locked position."

The Examiner's position with respect to Dombrowski is that the needle cap has three positions, a neutral position (Fig. 2), a locked position (Fig. 3), and an intermediate position located between the neutral position and the locked position. In view of the amendment to claim 1 discussed above; however, the needle cap of Dombrowski cannot now meet all of the claim

Preliminary Amendment
Serial No. 09/674,643
Our Ref: Q61622

recitations since the needle cap is capable of being positioned in only a single equilibrium position, the neutral position in which the needle is used (col. 4, lines 53-60).

In contrast to the Dombrowski needle cap, in the claimed invention the first resilient return hinge means allows the device for protecting the needle to take three positions, including two equilibrium positions and a locked position.

As such, Applicant requests that the Examiner withdraw the rejection of claim 1 at least for the reasons discussed above. In addition, Applicant requests that the Examiner withdraw the rejections of claims 3, 26-32, and 36 at least because of their dependency from claim 1.

Claims 3 and 23-25 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Dombrowski in view of Cameron (US 5,197,954). Applicant requests that the Examiner withdraw the rejections of claims 2 and 23-25 at least because of their dependency from claim 1 and because Cameron, which the Examiner has applied in an attempt to show a base with two parts attached by a weak point, does not cure the deficiencies in Dombrowski discussed above.

Claims 33-35 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Dombrowski in view of Schlesinger (US 4,283,498). Applicant requests that the Examiner withdraw the rejections of claims 33-35 at least because of their dependency from claim 1 and because Cameron, which the Examiner has applied in an attempt to show a sachet made of non-stretch material that is capable of tearing under a given traction, does not cure the deficiencies in Dombrowski discussed above


Preliminary Amendment
Serial No. 09/674,643
Our Ref: Q61622

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


John M. Bird
Registration No. 46,027

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE



23373

PATENT TRADEMARK OFFICE

Date: March 14, 2003

Preliminary Amendment
Serial No. 09/674,643
Our Ref: Q61622

RECEIVED

MAR 19 2003

TECHNOLOGY CENTER R3700



APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

The claims are amended as follows:

1. (Twice Amended) A device for protecting a needle for medical use or the like, the needle having a sharp end and a base end, and able to take at least three positions, respectively an equilibrium "starting position", an equilibrium "in-use position" and a "locked position", comprising:

type of balance bit opposing forces

a sleeve having a through bore defined on a given axis, said through bore being of a section that is not less than that of the needle to be protected;

a first link having first and second ends, said link being of a length " L_1 " defined between said two ends;

first resilient return hinge means for connecting the first end of the first link to the sleeve, said first hinge means being organized so that said first link takes up a defined equilibrium position on a direction that makes an acute angle (α) with the axis of the through bore;

base means suitable for receiving the base end of the needle to be protected;

a first crank arm, said first crank arm being defined between first and second ends, said crank arm being of a length " I_1 " defined between its two ends, the length " I_1 " of the first crank arm being no greater than the length " L_1 " of the first link; and

Preliminary Amendment
Serial No. 09/674,643
Our Ref: Q61622

first means for mounting each of said first and second ends of the first crank arm
to pivot freely respectively on the second end of the first link and on the base means.